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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,357	02/20/2004	Sangkeun Rhee	H0004301 (4760)	7709

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EXAMINER

DOONER, CHARLES

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,357

Applicant(s)

RHEE ET AL.

Examiner

Charles Dooner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 40-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 40-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

With regard to the rejoining of the method claims, the examiner has restated in the previous office action the reason for the restriction as well as the reasoning for making it final. However, for the applicant convenience, it will be restated below. Applicant's election with traverse of Claims 44-49 in the reply filed on January 6, 2006 is acknowledged. The traversal is on the ground(s) that Groups I and II are not independent and/or distinct groups on the grounds that both product and method claims contain all the same limitations. This is not found persuasive because the method claims have limitations to the method of productions whereas the product claims contain no such limitations. For example, the article product could be made by additional processes not listed such as coextrusion injection molding or by a lamination method.

The requirement is still deemed proper and is therefore made FINAL.

Response to Arguments

1. Applicant's arguments filed 4/18/2206 have been fully considered but they are not persuasive.

In regards to the applicant claim that there is no teaching to combine the teachings Tsai et al. (2003/0008152) with those of Kawachi et al. (6656601) on Page 4, Para 3, it is the opinion of the examiner that there is sufficient suggestion to combine these two references. The examiner recognizes that the references

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cannot be arbitrarily combined and that there must be some reason why one of ordinary skill in the art would be motivated to make the proposed combination of primary and secondary references. In *re Nomiya*, 184 USPQ 607. However, there is no requirement that the motivation to make the modification be expressly articulated. The test for combining the references is what the combination of the disclosures taken as a whole would suggest to one of ordinary skill in the art. In *re Simon*, 174 USPQ 114; In *re McLaughlin*, 170 USPQ 209. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In *re Bozek*, 163 USPQ 545

Tsai et al. (2003/0008152) clearly teaches the use of an ethylene/ alpha olefin copolymer evidenced by Urawa et al. (4751270)(Col 1, Lines 52-55) as an adhesive tie layer (Page 1, Para 13, Line 1-5) for a film comprising a fluoropolymer and a thermoplastic layer (Page1, Para. 13, Lines 1-5). It is agreed that Tsai et al. (2003/0008152) fails to teach the use of a tackifier. Kawachi et al. (6656601) taught the use of tackifiers to increase the adhesive force between polymer layers. The flouropolymer layer is another type of polymer. It is not unreasonable for one of ordinary skill to try a polymer adhesive with all types of polymers, whether specifically mentioned or not.

2. In response to applicant's arguments against the references individually on Page 3, Paragraph 4 and Page 4, Paragraph 1, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

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USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

3. As to applicants arguments on Page 5, Paragraph 4, with regards to the prior office action which the examiner withdrew, the new rejection is based on the same art, however, the rejection is not a repetition of the prior rejection. It has been of record that the new rejection has been made in which the examiner has clearly pointed out the use of ethylene/alpha olefin copolymer as an adhesive tie layer (Page 1, Para 13, Line 1-5) in Tsai et al. (2003/0008152) as evidenced by Urawa et al. (4751270)(Col 1, Lines 52-55). Therefore the rejection better illustrates that it would be clear to one of ordinary skill in the art to combine Tsai et al. (2003/0008152) with Kawachi et al. (6656601) since the only difference in the adhesive tie layer is the tackifier.

4. With regard to the use of Jing et al.(6849314) in Page 6, Paragraph 1 of the applicants arguments, the use of Jing in the prior office actions was to show that it is well known in the art to form multilayer fluoropolymers into tubes (Col. 1, Lines 9-10). The examiner agrees that this reference says nothing to the adhesive tie layer, but the opinion of the examiner that there is no need for this as it is dealt with by the art as discussed above.

5. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning in Page 6, Paragraph 3, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at

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the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). It has been discussed above as to the reasoning found in both Tsai et al. (2003/0008152) and Kawachi et al. (6656601) for their combination. While not repeating all the arguments, it is not beyond one of ordinary skill at the time of the invention to look at the ethylene/ alpha olefin and tackifier of Kawachi et al. (6656601) and combine it with the ethylene/ alpha olefin of Tsai et al. (2003/0008152).

6. One cannot show non-obviousness by attacking the references individually where the rejection is based on the combination of references. In *re* Young, et al., 56 CCPA 757, 403 F.2d 754. 865 OG 320, 159 USPQ 725.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Dooner whose telephone number is (571) 272-1646. The examiner can normally be reached on Monday-Friday from 9:00 to 5:30.

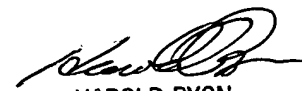
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Charles Dooner
Patent Examiner

7/7/06



HAROLD PYON
SUPERVISORY PATENT EXAMINER

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2/7/08